IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 23969 of 2007(C)

PETITIONER:

T.A. PURUSHOTHAMAN NAIR,
CANTEEN CONTRACTOR, APPOLO TYRES, PERAMBRA,
CHALAKUDI.

BY ADV. SRI.R.RAMADAS

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
TAXES DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, ERNAKULAM.

3. THE COMMERCIAL TAX OFFICER,
DEPARTMENT OF COMMERCIAL TAXES, CHALAKKUDY.

4. THE DEPUTY TAHSILDAR,
REVENUE RECOVERY, MUKUNDAPURAM.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 23969 of 2007

Dated, this the 7th day of August, 2007

J U D G M E N T

Petitioner is challenging Ext.P16 order of the appellate authority, whereunder petitioner is directed to make part-payment of tax as a condition for stay against recovery of sales tax for the assessment years 2000-01 to 2004-05. Petitioner has produced a copy of the judgment of the Supreme Court in **TISCO General Office Recreation Club Vs. State of Bihar & Others** (126 STC 547) which is in fact referred in the impugned order of the appellate authority. It is not known whether the facts are similar to the case decided by the Supreme Court. The appellate authority is directed to examine the contract of appointment, terms and conditions of supply of food in canteen by the petitioner and decide the case with reference to the decision of the Supreme Court. Since the facts are apparently similar, there will be direction to the respondents not to proceed with recovery of balance arrears of tax for the assessment years till disposal of the appeal. The second respondent is directed to dispose of the appeals after hearing the petitioner within a period of four months from the date of production of a copy of this judgment by the petitioner.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg